

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOHN DOE 1438,

No. 4:19-CV-01438

Plaintiff,

(Judge Brann)

v.

(Magistrate Judge Mehalchick)

THE PENNSYLVANIA STATE  
UNIVERSITY, *et al.*,

Defendants.

**ORDER**

**SEPTEMBER 11, 2020**

Plaintiff commenced the instant action on August 19, 2019 and it was jointly assigned to the undersigned and to a magistrate judge. Upon designation, a magistrate judge may “conduct hearings, including evidentiary hearings, and . . . submit to a judge of the court proposed findings of fact and recommendations.”<sup>1</sup> Once filed, this report and recommendation is disseminated to the parties in the case who then have the opportunity to file written objections.<sup>2</sup>

On July 14, 2020, Magistrate Judge Karoline Mehalchick, to whom this matter is jointly assigned, issued a thorough report and recommendation.<sup>3</sup> Magistrate Judge Mehalchick recommended that Plaintiff’s renewed motion for

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<sup>1</sup> 28 U.S.C. 636(b)(1)(B).

<sup>2</sup> 28 U.S.C. 636(b)(1).

<sup>3</sup> The Court notes that the report and recommendation is 70 pages long. *See* Doc. 71.

default judgment<sup>4</sup> be denied and that Defendants' motion to dismiss<sup>5</sup> be granted without prejudice to Doe's filing of a second amended complaint.

No objections to the report and recommendation have been filed. For portions of the report and recommendation to which no objection is made, the Court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."<sup>6</sup> Regardless of whether timely objections are made by a party, the District Court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.<sup>7</sup>

Because I write solely for the parties, I will not restate the facts, but will instead adopt the recitation of facts as set forth by the magistrate judge. I have conducted a de novo review here and found no error.

**AND NOW, IT IS HEREBY ORDERED** that:

1. Magistrate Judge Karoline Mehalchick's July 14, 2020 Report and Recommendation, Doc. 71, is **ADOPTED in full**.
2. Plaintiff's renewed motion for default judgment, Doc. 30, is **DENIED**.

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<sup>4</sup> See Doc. 30.

<sup>5</sup> See Doc. 40.

<sup>6</sup> Fed. R. Civ. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (*citing Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that judges should give some review to every report and recommendation)).

<sup>7</sup> 28 U.S.C. § 636(b)(1); Local Rule 72.31.

3. Defendants' motion to dismiss, Doc. 40, is **GRANTED**.
4. Plaintiff is granted leave to amend his complaint again. Plaintiff will be given fourteen days from today's date to file a second amended complaint. If no second amended complaint is filed, Plaintiff's action will be summarily dismissed pursuant to Federal Rule of Civil Procedure 41(b).
5. This matter is referred back to Magistrate Judge Mehachick for further proceedings.

BY THE COURT:

s/ Matthew W. Brann  
Matthew W. Brann  
United States District Judge